IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Criminal Revision No. 1032 of 2001
Date of Decision: March 26, 2009

Vinod Krishan .....Petitioner

Versus

Subhash Chand and another .....Respondents

Coram: Hon'ble Mrs. Justice Sabina

Present: Mr.A.S.Parmar, Advocate for the petitioner-
Amicus Curiae.
Mr.Vishal Garg,Advocate for respondent No.1
None for respondent No.2

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Sabina, J.

Petitioner- Vinod Krishan was convicted for an offence under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as `the Act') by the Judicial Magistrate Ist Class Chandigarh vide judgment dated 22.12.1995. Vide order of even date, petitioner was sentenced to undergo rigorous imprisonment for six months and directed to pay a fine of Rs.500/- . Aggrieved by the same, petitioner filed an appeal and the same was dismissed by the Additional Sessions Judge, Chandigarh vide order dated 13.7.2001. Hence, the present revision petition.

The brief facts of the case, as noticed by the Appellate Court in para 2 of its judgment, are as under:-

" Briefly put the facts of the case are that accused approached the

complainant for the supply of round structure iron and the same was supplied to him. To discharge his liability, he issued a cheque in favour of the complainant drawn on New Bank of India bearing No. 252474 dated 27.3.1993 for a sum of Rs. 1,49,407/-. On presentation of the said cheque to his banker for its encashment, the same was received back dishonoured on account of insufficient funds in the account of the accused. Complainant requested the accused to clear the payment of the disputed cheque but without any result. A lega notice was served upon the accused giving 15 days time to clear the payment. Despite service of the notice, appellant had failed to make the payment of the cheque amount."

Learned counsel for the petitioner has submitted that now the petitioner is 65 years old and was facing trial since the year 1993. Out of the cheque amount of Rs. 1,49,407/- petitioner has deposited Rs.1,35,000/-.

Learned counsel for the petitioner has not challenged the conviction of the petitioner under Section 138 of the Act and has submitted that sentence qua imprisonment be reduced to already undergone. Fine is stated to have been deposited.

Learned counsel for respondent No. 1 has submitted that respondent No.1 may be allowed to withdraw the amount deposited by the petitioner with the Registry and he has no objection if the sentence qua imprisonment of the petitioner be reduced to already undergone by him.

Accordingly, the conviction of the petitioner under Section 138 of the Act is maintained. However, his sentence qua imprisonment is

reduced to already undergone by him. Respondent No.1 is allowed to withdraw the amount of Rs, 1,35,000/- deposited by the petitioner vide receipt No. 7/2001 on 23.7.2001 (original receipt is also on record)

This petition is disposed of accordingly.

(Sabina)
Judge

March 26, 2009
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